

**IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Constellation Mystic Power, LLC,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 24-1077
	)	
Federal Energy Regulatory Commission,	)	
	)	
Respondent.	)	

**MOTION FOR LEAVE TO INTERVENE OF  
ISO NEW ENGLAND INC.**

ISO New England Inc. (the “ISO”), pursuant to Rule 15(d) of the Federal Rules of Appellate Procedure and Rule 15(b) of the Circuit Rules of this Court, hereby moves for leave to intervene in the above-captioned review proceeding.

On April 3, 2024, Constellation Mystic Power, LLC (“Constellation”) filed a petition for review of the following order and notice issued by Respondent Federal Energy Regulatory Commission (“FERC”):

- (1) *Constellation Mystic Power, LLC*, Order Granting in Part and Dismissing in Part Formal Challenges Subject to Refund, and Establishing Hearing and Settlement Judge Procedures, Docket No. ER18-1639-000, 185 FERC ¶ 61,170 (December 5, 2023); and
- (2) *Constellation Mystic Power, LLC*, Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration, Docket No. ER18-1639-028, 185 FERC ¶ 62,048 (February 5, 2024).

The underlying FERC proceeding concerns the Cost-of-Service Agreement (“Mystic Agreement”) among Mystic, Constellation Energy Generation, LLC, and the ISO. The Mystic Agreement provides cost-of-service compensation to Mystic for continued operation of the Mystic 8 and 9 natural gas-fired generating units for the period of June 1, 2022, to May 31, 2024, pursuant to the terms of the ISO’s Transmission, Markets and Services Tariff.

The Commission addressed the Mystic Agreement through a series of orders, some of which were appealed to this Court under Nos. 24-1048, 23-1189, and 20-1343 and consolidated cases. The petition for review concerns the Commission’s order addressing formal challenges filed against Constellation’s Second Informational Filing, which updates the inputs into the formula rate established by the Mystic Agreement. Specifically, the petition questions whether the Commission erred in granting, and setting for settlement and hearing, four formal challenges concerning Mystic’s Pre-2018 Rate Base (i.e., July 1, 2004 through Dec. 31, 2017), Mystic’s Rate Base from January 1, 2018 through May 31, 2022, the Everett Marine Terminal’s Rate Base from Jan. 1, 2018 through May 31, 2022, and the Everett Marine Terminal’s 2023 capital expenditure projects used in its calculations.

As the entity responsible for administering New England’s wholesale electricity markets and as a party to the Mystic Agreement, the ISO has a direct and substantial interest in the Court’s review of the challenged order and notice. Such

interest cannot be adequately represented by any other party. Accordingly, the ISO requests leave to intervene in this review proceeding.

Respectfully submitted,

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***Counsel for ISO New England Inc.***

Dated: May 1, 2024

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	)	
Respondent.	)	

**CORPORATE DISCLOSURE STATEMENT OF  
ISO NEW ENGLAND INC.**

ISO New England Inc. (the “ISO”) is filing this Corporate Disclosure Statement in compliance with Rule 26.1 of the Federal Rules of Appellate Procedure and Rule 26.1 of the Circuit Rules of the United States Court of Appeals for the District of Columbia Circuit. The ISO is a private, not-for-profit corporation organized under the laws of the State of Delaware that is responsible for operation of New England’s bulk power system. The New England region controlled by the ISO encompasses Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Circuit Rule 26.1(b) requires a statement that identifies the represented entity’s general nature and purpose, insofar as is relevant to the Petition for Review in this proceeding. As is relevant here, the ISO is authorized by Respondent Federal Energy Regulatory Commission (“FERC”) to administer a Transmission, Markets,

and Services Tariff (“Tariff”), provide transmission service under the Tariff on the electric transmission facilities under the ISO’s control, operate energy, capacity, and ancillary services markets, and otherwise conduct the day-to-day operations of the bulk power system of a multi-state electric control area. In 1998, FERC approved formation of the ISO as an independent system operator. *See New England Power Pool*, 83 FERC ¶ 61,045, at 61,264 (1998). The ISO is a party to, and administrator of, the Cost-of-Service Agreement among Constellation Mystic Power, LLC, Constellation Energy Generation, LLC, and the ISO that provides cost-of-service compensation to Mystic and is the subject of this appeal.

The ISO has no corporate parents. The ISO does not issue stock; therefore, no publicly held corporation owns 10% or more of its stock.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

Pursuant to the Federal Rules of Appellate procedure, I hereby certify that I have this 1st day of May 2024, served the foregoing Motion for Leave to Intervene and Corporate Disclosure Statement of ISO New England Inc. via the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Respectfully submitted,  
  
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